

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

v.

LUIS A. COLON,

Defendant.

CRIMINAL ACTION  
NO. 09-0155

**OPINION**

**Slomsky, J.**

**January 6, 2015**

**I. INTRODUCTION**

Before the Court is Defendant Luis Colon's Motion for Reconsideration of the Court's April 11, 2014 Order denying Defendant's Motion to Vacate/Set Aside/Correct Sentence under 28 U.S.C. § 2255 (Doc. No. 516).

On June 9, 2011, pursuant to a Guilty Plea Agreement (Doc. No. 344), Defendant pled guilty to numerous federal offenses, including participation in conspiracy to engage in a racketeering (RICO) enterprise stemming from his involvement as leader and "First Crown" of the Almighty Latin Kings and Queens Nation. He also pled guilty to drug and firearm offenses.<sup>1</sup>

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<sup>1</sup> Defendant pled guilty to offenses charged in fourteen counts of the Indictment. (Doc. No. 9.) The charges included one count of conspiracy to participate in a racketeering (RICO) enterprise, in violation of 18 U.S.C. § 1962(d), stemming from his involvement as leader and "First Crown" of the Almighty Latin Kings and Queens Nation (ALKQN) (Count 1); two counts of conspiracy to commit murder in aid of racketeering, in violation of 18 U.S.C. § 1959(a)(5) (Counts 4 and 6); one count of using and carrying a firearm during a violent crime, in violation of 18 U.S.C. § 924(c) (Count 5); two counts of distribution of more than fifty grams of cocaine base ("crack"), in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(A) (Counts 13 and 17); one count of distribution of methamphetamine, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(C) (Count 15); two counts of distribution of more than five grams of methamphetamine, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(B) (Counts 26 and 29); four counts of distribution of controlled substances within one thousand feet of a public housing authority property, in violation of 21 U.S.C. § 860(a) (Counts 14, 18, 27 and 30); and one count

The Guilty Plea Agreement was made pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C) and contained an agreed upon term of imprisonment within the sentencing guideline range of 322 to 360 months. (Id. at 2.) Defendant's guilty pleas were accepted by the Court at the hearing held on June 9, 2011. (Doc. No. 502 at 75-77.) On March 14, 2012, the Guilty Plea Agreement was approved and accepted by the Court and Defendant was sentenced to a term of imprisonment of 336 months to be followed by ten years of supervised release. (Doc. Nos. 425 at 3-4; 483 at 35-38.)

On December 27, 2012, Defendant filed a pro se Motion to Vacate/Set Aside/Correct Sentence under 28 U.S.C. § 2255 (the "§ 2255 Motion"), alleging six violations of his Sixth Amendment right to effective assistance of counsel. (Doc. No. 499.) He argued that because his counsel's performance fell below prevailing professional norms, he was placed in an unfair bargaining position during plea negotiations with the Government.<sup>2</sup> On September 16, 2013, the Government filed a Response in Opposition to Defendant's Motion. (Doc. No. 508.) On September 30, 2013, Defendant filed a Reply in Further Support. (Doc. No. 509.)

On April 11, 2014, this Court denied Defendant's § 2255 Motion. (Doc. Nos. 514, 515.) Defendant then filed a Motion for Reconsideration pursuant to Federal Rule of Civil Procedure

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of conspiracy to possess with intent to distribute more than 500 grams of methamphetamine, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(A) (Count 35).

<sup>2</sup> Defendant's Plea Agreement contains a waiver that bars Defendant from appealing or collaterally attacking his "conviction, sentence, or any other matter relating to this prosecution, whether such right to appeal or collateral attack arises under 18 U.S.C. § 3742, 28 U.S.C. § 1291, 28 U.S.C. § 2255, or any other provision of law." (Doc. No. 344 at 8.) This waiver does not bar claims of ineffective assistance of counsel during the execution of a plea agreement. (Id.) ("This waiver is not intended to bar the assertion of constitutional claims that the relevant case law holds cannot be waived."); see United States v. Khattak, 273 F.3d 557, 562 (3d Cir. 2001) ("[A] waiver will not bar appeal if the defendant claims his plea agreement was the product of ineffective assistance of counsel." (citing United States v. Joiner, 183 F.3d 635, 645 (7th Cir. 1999))).

59(e) on April 28, 2014. (Doc. No. 516). The Government filed a Response in Opposition on December 11, 2014. (Doc. No. 519.) Defendant's Motion for Reconsideration (Doc. No. 516) is now ripe for disposition. For reasons that follow, Defendant's Motion will be denied.

## **II. BACKGROUND**

In the Opinion dated April 11, 2014, this Court described the facts and procedural posture in this case. This Opinion incorporates the facts as set forth in this Court's April 11, 2014 Opinion (Doc. No. 514).

## **III. MOTION FOR RECONSIDERATION STANDARD**

"The purpose of a motion for reconsideration . . . is to correct manifest errors of law or fact or to present newly discovered evidence." Howard Hess Dental Labs. Inc. v. Dentsply Int'l, Inc., 602 F.3d 237, 251 (3d Cir. 2010) (quoting Max's Seafood Cafe ex rel. Lou-Ann, Inc. v. Quinteros, 176 F.3d 669, 677 (3d Cir. 1999)). Thus, a proper motion for reconsideration "must rely on one of three grounds: (1) an intervening change in controlling law; (2) the availability of new evidence; or (3) the need to correct clear error of law or prevent manifest injustice." Wiest v. Lynch, 710 F.3d 121, 128 (3d Cir. 2013) (quoting Lazaridis v. Wehmer, 591 F.3d 666, 669 (3d Cir. 2010)). However, "[a] motion for reconsideration 'addresses only factual and legal matters that the Court may have overlooked. It is improper on a motion for reconsideration to ask the Court to rethink what it had already thought through—rightly or wrongly.'" In re Blood Reagents Antitrust Litig., 756 F. Supp. 2d 637, 640 (E.D. Pa. 2010) (quoting Glendon Energy Co. v. Borough of Glendon, 836 F. Supp. 1109, 1122 (E.D. Pa. 1993)). Therefore, "[m]ere dissatisfaction with the Court's ruling . . . is not a proper basis for reconsideration." Progressive Cas. Ins. Co. v. PNC Bank, N.A., 73 F. Supp. 2d 485, 487 (E.D. Pa. 1999). Furthermore, "[b]ecause federal courts have a strong interest in the finality of judgments, motions for reconsideration should be granted sparingly." In re Asbestos Products Liab. Litig. (No. VI), 801

F. Supp. 2d 333, 334 (E.D. Pa. 2011) (quoting Cont'l Cas. Co. v. Diversified Indus., Inc., 884 F. Supp. 937, 943 (E.D. Pa. 1995)).

#### **IV. ANALYSIS**

As a threshold matter, Defendant's Motion for Reconsideration is not barred as a second or successive habeas petition because it does not directly challenge Defendant's conviction. Rather, it challenges this Court's rulings on the § 2255 Motion. See Blystone v. Horn, 664 F.3d 397, 414-15 (3d Cir. 2011) (holding motions for reconsideration under Rule 59(e) are not second or successive habeas petitions).

In his Motion for Reconsideration, Defendant (1) reasserts three ineffective assistance of counsel arguments that he made in his § 2255 Motion; (2) contends that the Court should have held a hearing on whether the Government had offered him an earlier, more favorable plea agreement; and (3) claims that two U.S. Supreme Court cases, Moncrieffe v. Holder, 133 S. Ct. 1678 (2013) and Descamps v. United States, 133 S. Ct. 2276 (2013), support a claim that his counsel was constitutionally ineffective during plea negotiations with the Government. (Doc. No. 516.) For reasons that follow, Defendant's arguments are unavailing, and his Motion for Reconsideration (Doc. No. 516) will be denied.

##### **A. Defendant's Reasserted Ineffective Assistance of Counsel Claims Do Not Warrant Reconsideration**

As noted above, Defendant reasserts in his Motion for Reconsideration three arguments that he put forth in his § 2255 Motion. First, Defendant again claims that the offenses charged in Counts 13, 14, 17, and 18 of the Indictment—all related to crack cocaine distribution—were insufficient to state an offense, and therefore his counsel was constitutionally ineffective for failing to move to dismiss them. (Doc. No. 516 at 1-3.) Second, Defendant attempts to resurrect his argument that his counsel was ineffective for failing to challenge a sentencing enhancement

under United States Sentencing Guidelines (“USSG”) § 3B1.1(a) (aggravating role). (Id. at 3-4.)

Third, Defendant renews his contention that the cumulative effect of his counsel’s actions amounted to ineffective assistance of counsel. (Id. at 5.)

Each argument was fully considered and rejected by the Court in the April 11, 2014 Opinion. (Doc. No. 514.) With regard to Defendant’s first argument, the Court explained in the Opinion that the language in the Indictment properly conformed to the language of the statutes Defendant was accused of violating, and therefore his counsel had no basis to seek their dismissal for failing to properly charge a federal offense. (See id. at 6-8.) As to Defendant’s second argument, the Court in its Opinion detailed how the sentencing enhancement Defendant received under USSG § 3B1.1(a) was justified by the facts of the case. (See id. at 9.) The Court’s Opinion also fully addressed Defendant’s third argument regarding the cumulative effect of defense counsel’s alleged errors. (See id. at 10-11.) Since the Court finds no reason to reconsider its rulings regarding Defendant’s ineffective assistance of counsel arguments, there is no reason to reconsider Defendant’s cumulative effect argument, which also has no merit.

In his Motion for Reconsideration, Defendant asks this Court to reconsider these rulings simply because he disagrees with them. However, “[m]ere dissatisfaction with the Court’s ruling . . . is not a proper basis for reconsideration.” Progressive Cas. Ins., 73 F. Supp. 2d at 487. Since there is no clear error of law or manifest injustice for this Court to correct, Defendant’s Motion to Reconsider the ineffective assistance of counsel claims will be denied.

**B. A Hearing on Whether Defendant Was Offered an Earlier, More Favorable Plea Agreement Was Not Warranted**

Defendant next argues that the Court erred in not holding an evidentiary hearing on whether Defendant was offered an earlier, more favorable plea agreement. (Doc. No. 516 at 4-5.) This claim stems from Defendant’s contention in his § 2255 Motion that his counsel

improperly estimated his sentencing guidelines, causing him to reject an earlier, more favorable plea agreement with the Government. Defendant argues that this amounted to ineffective assistance of counsel in violation of his Sixth Amendment rights.

In the April 11, 2014 Opinion denying Defendant's § 2255 Motion, the Court concluded that defense counsel's alleged conduct did not amount to ineffective assistance of counsel because (1) defense counsel's calculation was clearly identified as an estimate, and therefore did not mislead Defendant; and (2) defense counsel's calculation did not prejudice Defendant because there was no earlier, more favorable plea agreement offered by the Government. (Doc. No. 514 at 10.) Defendant disputes the Court's conclusion that there was not an earlier, more favorable plea agreement, and contends that the Court erred by not holding an evidentiary hearing on the issue. (Doc. No. 516 at 4-5.)

On a habeas petition to vacate a sentence, "[t]he District Court is required to hold an evidentiary hearing unless the motion and files and records of the case show conclusively that the movant is not entitled to relief." United States v. Lilly, 536 F.3d 190, 195 (3d Cir. 2008) (quotations omitted). A district court has discretion to make a ruling on the motion to vacate without a hearing where the record conclusively shows that the defendant's arguments could not provide habeas relief or "if the allegations [are] patently frivolous." Solis v. United States, 252 F.3d 289, 295 (3d Cir. 2001). Where the record on its face precludes habeas relief, a district court may deny a defendant's motion to vacate without a hearing. United States v. Schwartz, 925 F. Supp. 2d 663, 694 (E.D. Pa. 2013) (citing Han Tak Lee v. Glunt, 667 F.3d 397, 406-07 (3d Cir. 2012)).

In support of his contention that there was an earlier, more favorable plea agreement, Defendant points to an e-mail sent to his counsel by Government's counsel in response to one of Defendant's plea offers. (Doc. No. 499 at 20, 32.) The e-mail reads as follows:

Thanks for the note. As I'm sure you expect, we are not interested in your client's proposal. Luis Colon faces 25 years of mandatory on the meth and Vineland 924c alone. We might consider forgoing the 851 notice in an open plea to all counts (generously reducing the mand[atory sentence] to 15 years). Pls let us know by the end of the week. Thanks again, Steve.

(Id. at 32.) This response from the Government is not an explicit offer of a plea agreement. It is qualified quite clearly by the language "we might consider." It is also a rejection of a plea offer made by Defendant that the Government found unacceptable. Moreover, the e-mail does not contain any reference to an earlier, more favorable plea agreement. (Doc. No. 508 at 16-17.) Defendant's contention that there was such an earlier plea agreement lacks any basis in the record. As such, the Court was not required to hold an evidentiary hearing on the issue.

In addition, Defendant would not prevail on this ineffective assistance of counsel claim because the Court held, in its April 11, 2014 Opinion, that defense counsel's calculation of Defendant's sentencing guidelines was not unreasonable under prevailing professional norms. (Doc. No. 514 at 10.) The Opinion reads as follows:

On December 8, 2010, at the request of Defendant, defense counsel sent Defendant an outline of his possible guideline exposure. (Doc. No. 499 at 28-30.) Defense counsel noted that the outline was a "summary" and "a very approximate calculation of your Guideline exposure." (Id. at 28.) He also noted that the outline was "not meant as a guide; if you are convicted the probation officer's calculations are likely to be different." (Id.) Defense counsel made clear to Defendant that the outline was only meant to be an estimation. As such, he did not mislead Defendant. Counsel's conduct was reasonable under prevailing professional norms. Strickland v. Washington, 466 U.S. 668, 688 (1984).

(Id. at 10.) Since defense counsel’s conduct was reasonable under prevailing professional norms, Defendant cannot prevail on this ineffective assistance of counsel claim.<sup>3</sup> As such, the Court was not required to hold an evidentiary hearing on the issue.

For the reasons stated, there is no clear error of law or manifest injustice for the Court to correct. Therefore, Defendant’s Motion for Reconsideration of this ineffective assistance of counsel claim will be denied.

**C. The Descamps and Moncrieffe Decisions Do Not Support Defendant’s Request for Relief**

In his Motion for Reconsideration, Defendant seems to contend that two U.S. Supreme Court cases, Descamps v. United States, 133 S. Ct. 2276 (2013) and Moncrieffe v. Holder, 133 S. Ct. 1678 (2013), support his claim that his counsel was constitutionally ineffective for failing to object during plea negotiations to a career offender sentence enhancement that he was eligible to receive pursuant to United States Sentencing Guidelines (“USSG”) § 4B1.1.<sup>4</sup> (Doc. No. 516

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<sup>3</sup> Under Strickland v. Washington, 466 U.S. 668 (1984), to prevail on an ineffective assistance of counsel claim, a defendant must show: (1) counsel’s performance was not the result of reasonable professional judgment, and (2) counsel’s deficient performance prejudiced defendant. 466 U.S. at 687, 690.

<sup>4</sup> Defendant did not raise any arguments based on Descamps or Moncrieffe in his original § 2255 Motion. (See Doc. No. 499.) These are new arguments that Defendant raises for the first time in the Motion for Reconsideration. Defendant seems to contend, though, that these arguments are properly before the Court on the Motion for Reconsideration because they “relate back” to an argument in his original § 2255 Motion that appears to challenge his eligibility for a career offender sentence enhancement pursuant to USSG § 4B1.1, which is the same sentence enhancement he challenges here. (Doc. No. 516 at 5-6.) In his Reply in Further Support of his § 2255 Motion, Defendant conceded that the argument he put forth in his original § 2255 Motion challenging this sentence enhancement was without merit. (Doc. No. 509 at 5.) He now attempts to revive his challenge to this sentence enhancement here, but on different grounds. (Doc. No. 516 at 5-6.) The Court will not address whether Defendant’s arguments based on Descamps and Moncrieffe are properly before the Court on the Motion for Reconsideration because the Court finds them to be without merit for other reasons.



at 5-9.) For reasons that follow, neither case supports Defendant's ineffective assistance of counsel claim.<sup>5</sup>

**1. Neither Descamps nor Moncrieffe Can Support Defendant's Ineffective Assistance of Counsel Claim Because They Were Decided After Defendant Was Sentenced**

As a threshold matter, neither Descamps nor Moncrieffe can support Defendant's ineffective assistance of counsel claim because they both were decided in 2013, after Defendant was sentenced.<sup>6</sup> Defense counsel cannot be considered constitutionally ineffective for failing to make a motion based on court decisions that had not yet been decided. As such, Defendant cannot base his ineffective assistance of counsel claims on these cases.

**2. Descamps and Moncrieffe Do Not Support Defendant's Ineffective Assistance of Counsel Claim**

As noted above, Defendant seems to contend in his Motion for Reconsideration that his counsel was constitutionally ineffective for failing to raise an objection based on Descamps and Moncrieffe to the application of a career offender sentence enhancement to him. (Doc. No. 516 at 6-9.) However, neither Descamps nor Moncrieffe affects Defendant's eligibility for the sentence enhancement he challenges. Therefore, they do not support his ineffective assistance of counsel claim.

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<sup>5</sup> Defendant was eligible for a career offender sentence enhancement pursuant to USSG § 4B1.1. This enhancement, though, ultimately did not factor into the Court's final calculation of the applicable Sentencing Guidelines. Defendant's Combined Adjusted Offense Level under the Guidelines, without the § 4B1.1 enhancement, was 40. (Presentence Report ("PSR") ¶ 136.) Under the § 4B1.1 enhancement, Defendant's offense level would have been 37. (Id.); USSG § 4B1.1(b). Since the higher offense level applies, the § 4B1.1 enhancement for which Defendant was eligible ultimately did not contribute to the calculation of the applicable Guidelines. (See Doc. No. 483 at 15.)

<sup>6</sup> Defendant was sentenced on March 14, 2012. (Doc. No. 425 at 3-4.)

Defendant was eligible for a career offender sentence enhancement pursuant to USSG § 4B1.1 because he had two prior Pennsylvania state convictions for the felony of possession with intent to distribute marijuana. (See Exs. A, B attached to this Opinion.) A defendant is eligible for a career offender sentence enhancement when he has, among other things, two prior felony convictions for a controlled substance offense. See USSG § 4B1.1(a). Since Defendant's two prior state convictions for possession with intent to distribute marijuana qualify as "controlled substance offenses" under USSG § 4B1.1, Defendant was eligible for this enhancement.<sup>7</sup> For the following reasons, neither Descamps nor Moncrieffe would disturb Defendant's eligibility for this enhancement.

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<sup>7</sup> USSG § 4B1.2(b) defines the term "controlled substance offense" for the purpose of determining whether a career offender sentence enhancement under § 4B1.1 applies. Section 4B1.2(b) reads as follows:

The term "controlled substance offense" means an offense under federal or state law, punishable by imprisonment for a term exceeding one year, that prohibits the manufacture, import, export, distribution, or dispensing of a controlled substance (or a counterfeit substance) or the possession of a controlled substance (or a counterfeit substance) with intent to manufacture, import, export, distribute, or dispense.

USSG § 4B1.2(b). Defendant was convicted of violating 35 Pa. Cons. Stat. § 780-113(a)(30), which prohibits, inter alia, possession with intent to deliver a controlled substance. Under section (f) of 35 Pa. Cons. Stat. § 780-113, any person who violates clause 30 of section (a), which Defendant was convicted of violating, is subject to a sentence exceeding one year imprisonment, except if the controlled substance is classified in Schedule V. Marijuana is a Schedule I controlled substance, see 35 Pa. Cons. Stat. § 780-104(1)(iv), and therefore Defendant committed a controlled substance offense within the provisions of the career offender sentencing guideline, USSG § 4B1.1.

**a. Defendant's Argument Based on Descamps Would Be Unavailing**

In Descamps, the U.S. Supreme Court held that sentencing courts may not use the “modified categorical approach”<sup>8</sup> to determine whether a prior offense constitutes a “violent felony” under the Armed Career Criminal Act (ACCA), 18 U.S.C. § 924(e), when that prior offense consists of “a single, indivisible set of elements.”<sup>9</sup> 133 S. Ct. at 2282. Assuming, arguendo, that this holding also applies to a career offender sentence enhancement pursuant to USSG § 4B1.1, which is at issue here, Defendant still does not prevail.

As noted above, Defendant was eligible for a career offender sentence enhancement because he had two prior Pennsylvania state convictions for possession with intent to distribute marijuana. (See Exs. A, B.) Both of these convictions were for violating the same Pennsylvania statute, 35 Pa. Cons. Stat. § 780-113(a)(30). This statute prohibits, except as otherwise authorized,

the manufacture, delivery, or possession with intent to manufacture or deliver, a controlled substance by a person not registered under this act, or a practitioner not registered or licensed by the appropriate State board, or knowingly creating, delivering or possessing with intent to deliver, a counterfeit controlled substance.

This statute does not consist of a “single, indivisible set of elements.” Rather, it is a divisible statute because it sets forth alternative elements that can be proven to support a conviction. A person can be convicted for “the manufacture, delivery, or possession with intent to manufacture or deliver” the controlled substance. A court must use the modified categorical

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<sup>8</sup> The modified categorical approach allows courts to go beyond the text of a statute and consult documents such as indictments or jury instructions to determine whether a prior offense makes a defendant eligible for a sentence enhancement.<sup>8</sup> See Descamps, 133 S. Ct. at 2281.

<sup>9</sup> A statute with “a single, indivisible” elements does not contain two or more alternative elements that can be proven to support a conviction.

approach and consult outside documents, such as an indictment or jury instructions, if it wishes to determine the specific offense that led to a defendant's conviction under this statute.

The rule announced in Descamps only prohibits courts from using the modified categorical approach to evaluate convictions under statutes that consist of a "single, indivisible set of elements." 133 S. Ct. at 2282. Descamps does not affect how courts can evaluate convictions under divisible statutes such as 35 Pa. Cons. Stat. § 780-113(a)(30). Therefore, courts are free to use the modified categorical approach and consult outside documents to determine whether a conviction under this statute makes a defendant eligible for a sentence enhancement.

Here, the modified categorical approach was used to determine that Defendant was eligible for this sentence enhancement. The Court based its decision on information about Defendant's prior convictions for possession with intent to distribute marijuana that was included in the Presentence Report ("PSR"). In paragraphs 145 through 148 of the PSR, the Probation Officer described the two offenses Defendant had committed as possession with intent to distribute marijuana and summarized the Affidavits of Probable Cause which supported the commission of these offenses. (PSR ¶¶ 145-48.) In so doing, the Probation Officer relied upon original documents from the Court of Common Pleas of Northampton County, Pennsylvania, including the Affidavits of Probable Cause from the police officers who arrested Defendant.<sup>10</sup> (See Exs. A, B.) The facts presented in paragraphs 145 through 148 of the PSR were not disputed by either party, and were adopted by the Court at sentencing. (Doc. No. 483 at 17-18.) These facts show that Defendant had two Pennsylvania state convictions for possession with

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<sup>10</sup> Defendant's relevant convictions can be found at Court of Common Pleas of Northampton County, Pennsylvania, Docket Numbers CP-48-CR-0001636-2006 and CP-48-CR-0001638-2007.

intent to distribute marijuana. (PSR ¶¶ 145-48; Exs. A, B.) As explained above, these constitute “controlled substance offenses” that make Defendant eligible for a career offender sentence enhancement pursuant to USSG § 4B1.1. See USSG §§ 4B1.1(a), 4B1.2(b). Therefore, the Court made no error in using Defendant’s two prior convictions for possession with intent to distribute marijuana to qualify Defendant for this sentence enhancement.

Thus, Defendant’s counsel would have no basis to object to the applicability of this sentence enhancement under Descamps. As such, Defendant’s ineffective assistance of counsel claim based on Descamps is without merit.

**b. Defendant’s Argument Based on Moncrieffe Would Be Similarly Unavailing**

Moncrieffe also would not support Defendant’s ineffective assistance of counsel claim. In Moncrieffe, the Supreme Court held that where “a noncitizen’s conviction for a marijuana distribution offense fails to establish that the offense involved either remuneration or more than a small amount of marijuana, the conviction is not for an aggravated felony under the [Immigration and Nationality Act].” 133 S. Ct. at 1693-94. Moncrieffe’s holding only lessened the severity of distribution of marijuana with regard to potential deportation of immigrants under the Immigration and Nationality Act. 133 S.Ct. at 1682. Nothing in Moncrieffe suggests that it should be extended to cases outside of the immigration context, such as to a sentencing calculation in a criminal case. Pittman v. United States, 3:14-cv-01064, 2014 WL 3735918, at \*4 (M.D. Tenn. July 29, 2014). Therefore, Moncrieffe would not have been a basis for an objection to the career offender sentence enhancement that Defendant was eligible to receive. As such, Moncrieffe fails to support Defendant’s ineffective assistance of counsel claim.

## **V. CONCLUSION**

For the reasons stated, each of the arguments Defendant raises in his Motion for Reconsideration is without merit. Therefore, Defendant's Motion for Reconsideration (Doc. No. 516) will be denied. An appropriate Order follows.

# **EXHIBIT A**

N f)W

DATE: 6-14-07	DEFT. LOCATION: -	OTN: K3208660	CASE #: 1636-2006
DEFENDANT'S NAME: Luis A. Colon			SS#:
ADDRESS:			AGE/DOB: 4-20-84
CHARGE(S): Poss Drug Para, False ID, Poss Marijuana, Poss w/ Intent to Deliver Marijuana, Summaries			
DEFENSE ATTY: Burke	CLERK: J	COURT REPORTER: Evans	
ruDGE: McFadden	DISTRICT ATTY: Thompson		
<input type="checkbox"/> A jury is drawn & sworn <input type="checkbox"/> Waives right to a jury trial <input type="checkbox"/> Sentencing/Reconsideration			
<input type="checkbox"/> Parole/Probation/A.R.D. Violation Hearing <input type="checkbox"/> Bail/Bench Warrant Hearing <input type="checkbox"/> B/W Issued & Bail Forfeited			
<input type="checkbox"/> GUILTY PLEA <input checked="" type="checkbox"/> NEGOTIATED PLEA <input type="checkbox"/> NOLO CONTENDERE PLEA Plea ACCEPTED			
PLEA TO: Poss w/ Intent to Deliver Marijuana (F)			
CHARGES WITHDRAWN: All Others			

SENTENCE DEFERRED:	TO BE HELD:	<input type="checkbox"/> P.S. I REQUESTED
<input type="checkbox"/> REMANDED TO NCP	<input type="checkbox"/> PSYCHOLOGICAL EVALUATION	<input type="checkbox"/> GUIDELINES/PRIOR RECORD
<input type="checkbox"/> 1 D & A EVALUATION	<input type="checkbox"/> PSYCHIATRIC EVAL (W/COMPETENCY)	<input type="checkbox"/> BAIL CONTINUED
<input type="checkbox"/> OTHER		
CHARGE: Poss w/ Intent to Deliver Marijuana (F)		
SENTENCE IMPOSED:		
} < (FINE \$ 50 COSTS & RESTITUTION .		
MINIMUM _____ DAYS/MONTHS/YEARS		
<input type="checkbox"/> NCP	MAXIMUM _____ DAYS/MONTHS/YEARS	
<input type="checkbox"/> SCI		
<input type="checkbox"/> IMMEDIATE WORK RELEASE		
<input type="checkbox"/> SENTENCE SUSPENDED	<input type="checkbox"/> CREDIT _____ MOS	VED _____ RS
<input type="checkbox"/> COUNTY PROBATION		
<input type="checkbox"/> STATE PROBATION	_____ /YRS	
<input type="checkbox"/> INTERMEDIATE PUNISHMENT	_____ MOS/YRS	
<input type="checkbox"/> RESTRICTIVE INTERMEDIATE PUNISHMENT	_____ MOS WORK RELEASE	
MOS HOUSE ARREST W/ELECTRONIC MONITORING		
COMPLETION OF INPT DRUG & ALCOHOL TRTMT		
<input type="checkbox"/> RESTORATIVE SANCTIONS	MONTHS INTENSIVE SUPERVISION	
RUG & ALCOHOL EVALUATION & FOLLOW TREATMENT RECOMMENDED. THIS EVALUATION IS ORDERED PURSUANT TO & IN COMPLIANCE W/SECTION 8 OF ACT 63 AND GOOD CAUSE HAS BEEN SHOWN FOR DISCLOSURE TO THIS COURT.		
j(J. COMPLETE EDUCATION PROGRAM		
<input type="checkbox"/> COMPLETE C.A.L.M./STOPLIFT PROGRAM		
<input type="checkbox"/> COMPLETE ACT 122 TREATMENT		
<input type="checkbox"/> UNDERGO CRN AND AHSP		
XPERFORM ..12:(1_ HRS OF COMMUNITY SERVICE		
<input type="checkbox"/> PSYCHOLOGICAL EVALUATION & TREATMENT		
<input type="checkbox"/> PSYCHIATRIC EVALUATION {W/COMPETENCY} & TREATMENT		
<input type="checkbox"/> DUI ALTERNATIVE SENTENCING		
CONSECUTIVE TO _____		
*CONCURRENT TO: _____		
***COMMENCE: _____		

CHARGE:		
SENTENCE IMPOSED:		
<input type="checkbox"/> FINE <input type="checkbox"/> COSTS & RESTITUTION _____		
MINIMUM _____ DAYS/MONTHS/YEARS		
<input type="checkbox"/> NCP	MAXIMUM _____ DAYS/MONTHS/YEARS	
<input type="checkbox"/> SCI		
<input type="checkbox"/> IMMEDIATE WORK RELEASE		
<input type="checkbox"/> SENTENCE SUSPENDED	<input type="checkbox"/> CREDIT TIME SERVED	
<input type="checkbox"/> COUNTY PROBATION	_____ MOS/YRS	
<input type="checkbox"/> STATE PROBATION	_____ MOS/YRS	
<input type="checkbox"/> INTERMEDIATE PUNISHMENT	_____ MOS/YRS	
<input type="checkbox"/> RESTRICTIVE INTERMEDIATE PUNISHMENT	_____ MOS WORK RELEASE	
_____ MOS HOUSE ARREST W/ELECTRONIC MONITORING		
COMPLETION OF INPT DRUG & ALCOHOL TRTMT		
<input type="checkbox"/> RESTORATIVE SANCTIONS	MONTHS INTENSIVE SUPERVISION	
[ ] DRUG & ALCOHOL EVALUATION & FOLLOW TREATMENT RECOMMENDED. THIS EVALUATION IS ORDERED PURSUANT TO & IN COMPLIANCE W/SECTION 8 OF ACT 63 AND GOOD CAUSE HAS BEEN SHOWN FOR DISCLOSURE TO THIS COURT.		
<input type="checkbox"/> COMPLETE EDUCATION PROGRAM		
<input type="checkbox"/> COMPLETE C.A.L.M./STOPLIFT PROGRAM		
<input type="checkbox"/> COMPLETE ACT 122 TREATMENT		
<input type="checkbox"/> UNDERGO CRN AND AHSP		
<input type="checkbox"/> PERFORM _____ HRS OF COMMUNITY SERVICE		
<input type="checkbox"/> PSYCHOLOGICAL EVALUATION & TREATMENT		
<input type="checkbox"/> PSYCHIATRIC EVALUATION (W/COMPETENCY) & TREATMENT		
<input type="checkbox"/> DUI ALTERNATIVE SENTENCING		
CONSECUTIVE TO _____		
*CONCURRENT TO: _____		
***COMMENCE: _____		

GENERAL REMARKS:	Random Urine Screens
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CW receives \$900.00 forfei re - Deft. agrees



## Docket Number:

## Corrp./Inc. No. 06024952

2. On May 6, 2006 at 0043 hours your affiant observed a white Nissan Maxirra Bearing Pa. GCF-1515 {reg to NYDIA ESTRADA 615 Wyandotte Street Bethlehem Pa. 18015) driving eastbound on 200 Blk. E. 3rd Street Bethlehem Pa. 18015 with out lighted lanps on {The vehicle had no lights on) .

4. Upon checking [redacted] wanted persons info with [redacted] DEFENDANT'S and MICHAEL PAGANS', 'The DEFENDANT advised rre that CARRASQUILID was his brother. Info:rrration from previous contact with PAGAN, he was to have a mushroom cloud tattoo on his arm and fran the wanted person info:rrration CARRASQUILID was to have a srrall tattoo on his hip. DEFENDANT was asked to step out of his vehicle to check for the tattoos. 'The DEFENDANT did not have these tattoos.

6. An NCIC check of the DEFENDANTS real name LUIS CDIDN JR. yielded a Pa. drivers license 26 878 796 and was under suspension. The DEFENDANT was LIVE SCANNED and is LUIS CDLON JR.

I, Q:..(n..7 rrl {..l-OY"Yi.€"-., BEING DULY SWORN ACCORDING TO LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

TEMPORARY ASSIGNMENT  
BY COURT ORDER

\_\_\_\_\_+\_\_\_\_\_''''''''''-----,,,.:..:\_\_\_\_\_''''''''''-----|-----+-----:,,\_\_\_\_\_,,Magisterial District

SEAL

Defendant Name: LUIS COIDN JR.
Docket Number:



POLICE  
CRIMINAL COMPLAINT

AFFIDAVIT of PROBABLE CAUSE

carp./Inc. No. 06024952

conducted a vehicle inventory of the vehicle. Officer Yadlovsky advised me he located a palm.scale digital scale under the passenger side front seat and a clear plastic baggie containing suspected MARIJUANA under DEFENDANTS SEAT.

8. The (3) baggies of suspected MARIJUANA were seized field tested by Officer Yadlovsky using a Sirchie :NARK #8 and a positive result the presence :MARIJUANA was obtained. The :MARIJUANA was placed into evidence room and is to be sent to PSP nlab for further testing.

9. The pa.lmscale, wallet and US currency were also seized and placed into the evidence room.

I, LEON TAYLOR, BEING DULY SWORN ACCORDING TO  
"LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE FOREGOING AFFIDAVIT ARE  
TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

Sworn to me 6 day of 2006  
9 Magisterial District

Judge My commission expires first Monday of January, 2006 SEAL

# **EXHIBIT B**

NO FILE

DATE: 6-14-07	DEPT. LOCATION: -	OTN: K5384820	CASE #: 1638-2007
DEFENDANT'S NAME: Luis A. Colon			SS#:
ADDRESS:			AGE/DOB: 4-20-84
CHARGE(S): Poss Marijuana, Poss w/ Intent to Deliver Marijuana, File/Elude Police Summaries			
DEFENSE ATTY: Burke	CLERK: J	COURT REPORTER: Evans	
JUDGE: McFadden	DISTRICT ATTY: Thompson		
<input type="checkbox"/> A jury is drawn & sworn <input type="checkbox"/> Waives right to a jury trial <input type="checkbox"/> Sentencing/Reconsideration			
<input type="checkbox"/> Parole/Probation/A.R.D. Violation Hearing <input type="checkbox"/> Bail/Bench Warrant Hearing <input type="checkbox"/> B/W Issued & Bail Forfeited			
<input type="checkbox"/> GUILTY PLEA <input checked="" type="checkbox"/> NEGOTIATED PLEA <input type="checkbox"/> NOLO CONTENDERE PLEA <u>Plea</u> ACCEPTED			
PLEA TO: Poss w/ Intent to Deliver Marijuana (F)			
CHARGES WITHDRAWN: All Others			
SENTENCE DEFERRED:		TO BE HELD:	
<input type="checkbox"/> REMANDED TO NCP <input type="checkbox"/> PSYCHOLOGICAL EVALUATION		<input type="checkbox"/> P.S.I. REQUESTED	
<input type="checkbox"/> D & A EVALUATION <input type="checkbox"/> PSYCHIATRIC EVAL (W/COMPETENCY)		<input type="checkbox"/> GUIDELINES/PRIOR RECORD	
<input type="checkbox"/> OTHER		<input type="checkbox"/> BAIL CONTINUED	
CHARGE: Poss w/ Intent to Deliver Marijuana (F)			
SENTENCE IMPOSED:		RUG & ALCOHOL EVALUATION & FOLLOW TREATMENT RECOMMENDED. THIS EVALUATION IS ORDERED PURSUANT TO & INCOMPUANCE W/SECTION 80FACT 63 AND GOOD CAUSE HAS BEEN SHOWN FOR DISCLOSURE TO THIS COURT.	
/FINE \$ ?...-!\ [ \...r" COSTS & RESTITUTION \$			
A""J . fi ""j. (			
MINIMUM _____ DAYS/MONTHS/YEARS		KcoMPLETEEDUCATION PROGRAM	
<input type="checkbox"/> NCP MAXIMUM _____ DAYS/MONTHS/YEARS		<input type="checkbox"/> COMPLETE C.A.L.M./STOPLIFT PROGRAM	
<input type="checkbox"/> SCI		<input type="checkbox"/> COMPLETE ACT 122TREATMENT	
<input type="checkbox"/> IMMEDIATE WORK RELEASE		<input type="checkbox"/> UNDERGO CRN AND AHSP	
<input type="checkbox"/> SENTENCE SUSPENDED		NPERFORM .a.a _____ HRS OF COMMUNIITY SERVICE	
<input type="checkbox"/> CRED T = VED		<input type="checkbox"/> PSYCHOLOGICAL EVALUATION & TREATMENT	
P<(COUNT:Y PROBATION		<input type="checkbox"/> PSYCHIATRIC EVALUATION (W/COMPETENCY) & TREATMENT	
<input type="checkbox"/> STATE PROBATION _____ /YRS		<input type="checkbox"/> DUI ALTERNATIVE SENTENCING	
_____ MOS RS		CONSECUTIVE TO	
<input type="checkbox"/> INTERMEDIATE PUNISHMENT _____ MOS/YRS		*CONCURRENT TO: 1 bk -	
<input type="checkbox"/> RESTRICTIVE INTERMEDIATE PUNISHMENT _____ MOS WORK RELEASE		***COMMENCE: _____	
_____ MOS HOUSE ARREST W/ELECTRONIC MONITORING			
<input type="checkbox"/> RESTORATIVE SANCTIONS			
MONTHS INTENSIVE SUPERVISION			
SENTENCE IMPOSED:		<input type="checkbox"/> DRUG & ALCOHOL EVALUATION & FOLLOW TREATMENT RECOMMENDED. THIS EVALUATION IS ORDERED PURSUANT TO & IN COMPLIANCE W/SECTION 8 OF ACT 63 AND GOOD CAUSE HAS BEEN SHOWN FOR DISCLOSURE TO THIS COURT.	
<input type="checkbox"/> FINE <input type="checkbox"/> COSTS & RESTITUTION \$		<input type="checkbox"/> COMPLETE EDUCATION PROGRAM	
MINIMUM _____ DAYS/MONTHS/YEARS		<input type="checkbox"/> COMPLETE C.A.L.M./STOPLIFT PROGRAM	
<input type="checkbox"/> NCP MAXIMUM _____ DAYS/MONTHS/YEARS		<input type="checkbox"/> COMPLETE ACT 122 TREATMENT	
<input type="checkbox"/> SCI		<input type="checkbox"/> UNDERGO CRN AND AHSP	
<input type="checkbox"/> IMMEDIATE WORK RELEASE		<input type="checkbox"/> PERFORM _____ HRS OF COMMUNIITY SERVICE	
<input type="checkbox"/> SENTENCE SUSPENDED <input type="checkbox"/> CRED TIME SERVED		<input type="checkbox"/> PSYCHOLOGICAL EVALUATION & TREATMENT	
<input type="checkbox"/> COUNTY PROBATION _____ MOS/YRS		<input type="checkbox"/> PSYCHIATRIC EVALUATION (W/COMPBIBNCY) & TREATMENT	
<input type="checkbox"/> STATE PROBATION _____ MOS/YRS		<input type="checkbox"/> DUI ALTERNATIVE SENTENCING	
<input type="checkbox"/> INTERMEDIATE PUNISHMENT _____ MOS/YRS		CONSECUTIVE TO _____	
<input type="checkbox"/> RESTRICTIVE INTERMEDIATE PUNISHMENT _____ MOS WORK RELEASE		*CONCURRENT TO: -	
_____ MOS HOUSE ARREST W/ELECTRONIC MONITORING		***COMMENCE: _____	
COMPLETION OF INPT DRUG & ALCOHOL TRTMT			
MONTHS INTENSIVE SUPERVISION			
<input type="checkbox"/> RESTORATIVE SANCTIONS			
GENERAL REMARKS Random nine Screens			

COMMONWEALTH OF PENNANIA  
COUNTY OF: NORTHAMPTON



LICE RECEIVED  
CRIMINAL COM ;,L""i"if I \_6 ZOO?

BY:

COMMONWEALTH OF PENNSYLVANIA  
VS.

DEFENDANT:

NAMEandADDRESS

LUIS ANGEL COLON  
62S A"l.I.AN.I:IC ST  
BlilTHLEHEM PA 18015

Docket No.: Cf- 9;;;J - O ?

Date Filed: l/1 01

OTN: 53)/ rf 8;)- ( )

Defendant's Race/Ethnicity OSI White DAsian !!Hispanic Defendant's A.K.A. (also known as)	Defendant's Sex D Female IX! Male	Defendant's D.O.B. 04/20/1994	Defendant's Social Security Number 183-64-8016	Defendant's SID (State Identification Number) 289-24-52-6
Defendant's Vehicle Information Plate Number SI?V0i3.S3		Defendant's State Registration Sticker (MMNY) PA	Defendant's Driver's License Number PA 26878796	
Complaint/Incident Number 200703100334	LiveScan Tracking Number	Complaint/Incident Number if other Participants		UCRINIBRS Code 1832/35A

Office of the Attorney for the Commonwealth OApproved DDisapproved because:  
(ThullOmeyfortheCommonwealthmey r rethatthecomplaint, atrailWAMWaffidavi or both be approved by lile attorney for the Commronwaath prior to filing, Pa.R.Crlm.P.507.)

(Name of Attorney for Commonwealth-Please Print or Type)	(Signature Of Attorney for Commonwealth)	(Date)
I, PTL THOMAS BARNDT	175	
(Name of Affiant-Please Print or Type)	(Officer Badge Number/ID)	
of LOWER SAUCON TOWNSHIP POLJ:CII:	PL1 .0491700	20070316M7334/A.-45S3
(Identify Department or Agency Represented and Political Subdivision)	(Police Agency or ORI Number)	(Originating Agency Case Number (OCA))

do hereby state: (check appropriate box)

1. Iaccuse the above named defendant who lives at the address set forth above
- D Iaccuse the defendant whose name is unknown to me but who is described as \_\_\_\_\_
- D Iaccuse the the defendant whose name and popular designation or nickname is unknown to me and whom I have therefore designated as John Doe
- with violating the penal laws of the Commonwealth of Pennsylvania at,,,,,,,,,=-=-V.,...-::===-C:-----  
(Place-Physical Subdivision)
- R're#37S, LOWER SAUCON 'rOWNSHIJ? 'ro PAWNEE ST.

in NORHAMPTON County on or about 15 March 2007 at approx. 22:48 hr.

Participants were: (if there were participants, place their names here, repeating the name of the above defendant)  
COLON, LUIS ANGEL

Defendant's Name: LU S ANGEL COLON

Docket Number: 116-111-017



POLICE  
CRIMINAL COMPLAINT  
RECEIVED

2. The acts committed by the accused were:  
(Set forth a Summary of the facts sufficient to advise the defendant of the nature of the offense charged. A citation to the statute alleged violated is not sufficient. In a summary case, you must cite the specific section and subsection of the statute or ordinance allegedly violated.) 007

MAHIOFACroali: 01' CONT'ROLLID SUBSTANCE, DRUG, DEVIC! OR COSMZT!C (Ji) The Aotor, J!)#...:'.==...: I  
Angal Colon, on o:z: abo'l,l,t, 03-15-07 ai: 224Shrs, in the county of Nort.huipt.on, no being  
rci&st.iu:ed.u:nder the **Control** ad. Subst:.ance, D:t"l.l.jjJ, Devic::e and Comnet.ic Act, Act of  
A.pil:oil 14, 19'12, nor a practitioner :-egiiatered or: J.icans'l!ld :by the appropria Stat.a  
Board, manuf'aaturad, or possessed with intant to daliv.r,  
Marijuana (approx .13S9rame) , a contr:olled subst:.anC4l, in violation of: Section  
13 (a) (30) of the Conolled Subetanc:e, Drug, :Oavice and cosmetic Act, Act O April  
14, 1972, aa a:inertd.ed, 35 P.S. L7S0-113 (a) (30)  
!OSSESSIO:rst 01' CONtROLLED SOBS?ANCE/ D!W'GS, DEVIC:S OR COSMER!C (M) !!!he Actor, :Luis  
Angel Colon, on or 11.l::lout., 03-15-07 at. 2249hrs, in t:h8I County of Northampton,  
knowingly or intentionally poaaeead a controlled or oounte;r:feit subetancee, nam.l ,  
Marijuana j the aaid actor not th and ,th9re being registered unde the Controlled  
Substance, Drug, :Daviea ana Cosmetic Aot, Jlot of April 14, 1972, or a practitioner  
registered. or licensad by the appropiate St.a:ta Board, in Violation of **section**  
13 (a) (16) of th- Controlled S'UbstOince, Drug-, Davic11 and Cosmetic Ac::t, Aot of April  
14, 1972, as amende6, 35 P.S. 780-113 (a) (16)  
B!L!::ING O:R ING 'TO illidO:&: POLICE OJ!T CER (M2) The Actor, Lu s Angel Colon, 011 or  
about, 03-15-07 at 224Bhrs, in tha County of Northampton, cb:ova a motor vehicle,  
namely, 1995 Honda ring Pa ISPV0853, on a highway or t afficway, namely,  
Rtef37S, Ontario St to Pawnee St , in tha Commonwealth cwd will:fully fulad or  
rafusaa to bring hie vehiele to a stop, or o'l:Niz:wise fled. or **attd** to elude a  
(Continued)

all of which were against the peace and dignity of the Commonwealth of Pennsylvania and contrary to the Act of Assembly, or in violation of

1. 13 (Section)	A30	of the 35 (PA Statute)	1 --;-;-r---
2. 13 (Section)	A16 (Subuction)	of the 35 (PA Statute)	1 (co1.mts)
3. 3733 (Section)	ASB (Subsection)	of the 75 (PA Statute)	1 (counts)
4. 1543 (Section)	A (Subsection)	of the 75 (PA Statute)	1 (counts)

3. I ask that a warrant or a summons be issued and that the defendant be required to answer the charges I have made. (In order for a warrant of arrest to issue, the attached affidavit of probable cause must be completed and sworn to before the issuing authority.)
4. I verify that the facts set forth in this complaint are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 PA C.C.4904) relating to unsworn falsification to authorities

COMth\b , otbJ. \ " Cls--  
(Signatures of Affiant)

AND NOW, on this date 03/16/07, I certify that the complaint has been properly completed and verified. An affidavit of probable cause must be completed in order for a warrant to issue.

r:; 3-''' 4.. o '3  
(Magl:stetial DiWict) (ISSUiiQAUtfu)ity SEAL

Defendant's name: LU S ANGEL COLON

Docket Number: Cf--92-07



POLICE  
CRIMINAL COMPLAINT

RECEIVED  
MAR 16 2007

2.. The acts committed by the accused were:.  
(Set forth a summary of the facts sufficient to advise the defendant of the nature of the offense charged. A citation to the statute allegedly violated is not sufficient in a summary. You must cite the specific section and subsection of the statute or ordinance allegedly violated.)

pursuing police vehicle, having been given visual or audible signal to bring the vehicle to a stop, in violation of Section 3733(a) and (b) of the Pennsylvania Vehicle Code, Act of June 17, 1976, as amended, 75 Pa. C.S. 3733(a) & (b)  
DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS IS SUSPENDED OR REVOKED (SUM) The Actor, Luis Angel Colon, on or about, 03-15-07 at 2245hrs, in the County of Northampton drove a motor vehicle, namely, 1995 Honda bearing registration #GPVOS53, on a highway or trafficway, namely, Rt 378, Ontario St. to Pawnee St., of the Commonwealth after the reinstatement of a suspension, revocation or cancellation of the operating privilege and before the operating privilege had been restored, in violation of Section 1543(a) of the Pennsylvania Vehicle Code, Act of June 17, 1975, as amended, 75 Pa. C.S. 1543(a)

ONE-WAY ROADWAY (SUM) The Actor, Luis Angel Colon, on or about, 03-15-07 at 2245hrs, in the County of Northampton, drove a motor vehicle, namely, 1995 Honda bearing registration #GPVOS53, on a one-way roadway, namely, Allka St and Pawnee St, in the direction other than the one officially designated, in violation of Section 3303(b) of the Pennsylvania Vehicle Code, Act of June 17, 1976, as amended, 75 Pa. C.S. 3303(b)  
STOP SIGN AND YIELD SIGNS (SUM) The Actor, Luis Angel Colon, on or about, 03-15-07 at 2245hrs, in the County of Northampton, drove a motor vehicle, namely, 1995 Honda bearing registration #GPVOS53, on a highway or trafficway, namely, Jischke St., approaching a stop sign and failed to stop at a point decreed by this section, in violation of Section 3323(b) of the Pennsylvania Vehicle Code, Act of June 17, 1976, as amended,

(continued)

all of which were against the peace and dignity of the Commonwealth of Pennsylvania and contrary to the Act of Assembly, or in violation of

1. 3309	(Subsection)	of the 75 (PA Statute)	(Counts)
2. 3323	(Section)	of the 75 (PA Statute)	1 (counts)
3.	(Section)	of the (PA Statute)	(counts)
4.	(Section)	of the (PA Statute)	(counts)

3. That a warrant or a summons be issued and that the defendant be required to answer the charges I have made. (In order for a warrant of arrest to issue, the attached affidavit of probable cause must be completed and sworn to before the Issuing authority.)
4. I verify that the facts set forth in this complaint are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 PA C.S. 4904) relating to unsworn falsification to authorities.

ffix (x) to Qcd. Signature of Affiant

AND NOW, on this date 03/16/07, I certify that the complaint has been properly completed and verified. An affidavit of probable cause must be completed in order for a warrant to issue.

03 (Magisterial District) Y3 (Issuing Authority)

SEAL

Defendant's Name: LTJIS ANGEL COLON
Docket Number: 007-9J



POLICE  
CRIMINAL

MAR 16 2007  
BY: [Signature]

2. The acts committed by the accused were:  
(Set forth a summary of the facts sufficient to advise the defendant of the nature of the offense charged. A reference to the statute allegedly violated, without more, is not sufficient. In summary care, you must cite the section and subsection of the statute or ordinance allegedly violated.)

75 Pa. C.S. C3323(d)

all of which were against the peace and dignity of the Commonwealth of Pennsylvania and contrary to the Act of Assembly, or in violation of

- |           |                    |                       |
|-----------|--------------------|-----------------------|
| 1. _____  | _____ of the _____ | _____                 |
| (Section) | (Subsection)       | (PA Statute) (counts) |
| 2. _____  | _____ of the _____ | _____                 |
| (Section) | (Subsection)       | (PA statute) (counts) |
| 3. _____  | _____ of the _____ | _____                 |
|           | (Subsection)       | (PA Statute) (counts) |
| 4. _____  | _____ of the _____ | _____                 |
| (Section) | (Subsection)       | (PA statute) (counts) |

3. I ask that a warrant or a summons be issued and that the defendant be required to answer the charges I have made. (In order for a warrant of arrest to issue, the attached affidavit of probable cause must be completed and sworn to before the Issuing authority.)
4. I verify that the facts set forth in this complaint are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 PA C.C. 4904) relating to unsworn falsification to authorities.

ff\s&n)k . d!:ol. \:-=): 1 -s:::3 °t-i.S:=  
(Signature of Affiant)

AND NOW, on this date 03/16/07, I certify that the complaint has been properly completed and verified. An affidavit of probable cause must be completed in order for a warrant to issue.

O?, r f... - o.3  
(Magisterial District)

CMv(Yk  
(Issuing Authority)

SEAL



Defendant's Name; LUIS ANGEJ:, COJ40lt

Docket Number:

CR-92-07



POLICE  
CRIMINAL @liEli ITV461

MAR 1(fZ007

# AFFIDAVIT OF PROBABLE CAUSE

- 1.) Your affiMt, Officer Thme.s Barndt of the Lower Saucon Police Dapa 1 L.J.Y: : attempted to stop a maroon Honda bearing Pa RegiGJ?V0853 for violating Section 3344 0£ ile 75 in Lower Saucon. Township while exiting Rafeotions" Gentleman's Club. Upon initiating a vehicle stop on Ot-1.tario Street Bethlehem City) the vehicle fled.
- 2.) Your afi'iant pursued thGI vehicle with emergency lights and siren activated and tha vahiole continued. to flee driving the m::ong way on Al.a.ska St (:Bethlehem C:ity) then failing to stop at. Jischks St&athlahem City) and Broadway Bethltti&m City) then the wrong way a.gain on Pawnee St Bethlehem. City).
- 3.) The driver then fled. from. the vehicle on Pawnee St Bethlehem City) with a white plastic bag with your affiant In foot pursuit.
- 4.) 'lne defend.ant then scaled a 6' chain link fence and your affiant had a hold of his leg when the defendant went over the fen.oe. Your a:ffiant also got a good look at the defendants faea.
- 5.) Your affiant then observed the defendant pull the white :bag from his shi;i::t and drop it as he apprQachad Mohican. St. Bethlehem City) d fled.
- 6.) A description was given to SethlahQm. Police Of tha defendant and after learning the raistarad owner of the vehi<:Ua that fled BathlQhem Police reported that it sounded like Luis Angel Colon the son of the J::'Qgistered. owner.
- 7.) Your affiant retrieved the white plastic bag that was dropped by th.a defenctm.t and it contained two large ziplook plastic bags containing grQen-brown vegetable matter whioh field tested positive for Marijuana and weighed a total 0£ approx. 138gram.s.
- 8.) Your affiant then did further investigation and obtained a picture froin JNE of Luis Angel Colon and positively idQt!.tified the picture as the aator who fled from YQUr affiant. Luia .Angel Colon also had a suspend.ad operators license.
- 9.) Your affiant also identified the defendant as Luis Ang&l Colon from pictures obtained. from. :aathlehem. Police also.
- 10.) Based. upon the aforesntioned facts you affiant equests arrest warrants

on Luis Ang@l Colon-

; :

==:1-.

I, PTL THOMAS

'r

17S

, BEING DULY SWORN

ACCORDING TO LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE FORGOING AFFIDA VIT ARE TRIJEAND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

-----? - 4 .:rS-

(Signature of Affiant)

Swom to me and subcribed before me this

.. / b

day of

m

(VI. C/L

, t:JI

'b&<k:-

, Magisterial District Judge

My commission expires first Monday of January,

2012

SEAL